

10486

I N A S S E M B L Y

May 29, 2012

Introduced by M. of A. CALHOUN -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to prohibiting the appointment of a health care agent or surrogate who is the subject of an order of protection protecting the principal

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 2985 of the public health law is
2 amended by adding a new paragraph (f) to read as follows:

3 (F) THE APPOINTMENT OF A HEALTH CARE AGENT SHALL BE REVOKED UPON: (1)
4 THE AGENT BECOMING THE SUBJECT OF AN ORDER OF PROTECTION PROTECTING THE
5 PRINCIPAL; OR (2) THE AGENT BEING ARRESTED OR CRIMINALLY CHARGED WITH
6 ANY CRIME SET FORTH IN THE PENAL LAW AS A RESULT OF ANY ACTION ALLEGEDLY
7 CAUSALLY RELATED TO THE INCAPACITATION OF THE PRINCIPAL.

8 S 2. Subdivision 2 of section 2994-d of the public health law, as
9 added by chapter 8 of the laws of 2010, is amended to read as follows:

10 2. Restrictions on who may be a surrogate. (A) An operator, adminis-
11 trator, or employee of a hospital or a mental hygiene facility from
12 which the patient was transferred, or a physician who has privileges at
13 the hospital or a health care provider under contract with the hospital
14 may not serve as the surrogate for any adult who is a patient of such
15 hospital, unless such individual is related to the patient by blood,
16 marriage, domestic partnership, or adoption, or is a close friend of the
17 patient whose friendship with the patient preceded the patient's admis-
18 sion to the facility. If a physician serves as surrogate, the physician
19 shall not act as the patient's attending physician after his or her
20 authority as surrogate begins.

21 (B) NO PERSON SHALL SERVE AS A SURROGATE IF HE OR SHE: (1) IS THE
22 SUBJECT OF AN ORDER OF PROTECTION PROTECTING THE INCAPACITATED PATIENT;
23 OR (2) HAS BEEN ARRESTED OR CRIMINALLY CHARGED WITH ANY CRIME SET FORTH
24 IN THE PENAL LAW AS A RESULT OF ANY ACTION ALLEGEDLY CAUSALLY RELATED TO
25 THE INCAPACITATION OF THE PATIENT.

26 S 3. This act shall take effect immediately.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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